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Paper No. 46

In re Application of
MORRIS, DAVID CURT
Appl No.: 09/328,931
Filed: June 09, 1999

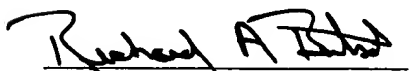
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: **DECISION GRANTING**
: **PETITION**
: *37 CFR 1.181*
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This is a decision on petitioner's request filed March 31, 2005 to review the holding of abandonment, mailed March 15, 2005. The petition is considered pursuant to 37 CFR 1.181 and no fee is required for this petition.

The petition is granted.

A review of the record indicates that the BPAI rendered a decision on December 30, 2004 containing a new ground of rejection pursuant to 37 CFR 41.50. As outlined in the decision, appellant has two months to take action. The examiner held the application abandoned on March 15, 2005 as there was no response in the file at that time. Petitioner alleges that an amendment to the claims was timely filed. In support of the request, petitioner has submitted a copy of a response and a copy of a PTO stamped post card receipt dated March 3, 2005. The copy of the response also had a certificate of mailing under 37 CFR 1.8 certifying that the response was deposited with the USPS as first class mail with sufficient postage on February 28, 2005. Furthermore, the originally filed response is now in the application file.

In view of the above, the Notice of Abandonment mailed March 15, 2005 is hereby vacated and the holding of abandonment is withdrawn. The application will be forwarded to the Technical Support Staff to return the application to an active status and for entry of the amendment. The application will then be forwarded to the examiner.


Richard A. Bertsch, Director
Technology Center 3700